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The Honorable David H. Pryor
Chairman, Subcommittee on Federal
Services, Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This is in reply to a request from your office for our views on the issues raised in a letter from your constituent, a retired federal employee. She was concerned about the Public Pension Offset, a provision of the Social Security Act that reduces Social Security benefits for federal and other government retirees who are entitled to Social Security benefits as spouses of Social Security recipients.

The concerns your constituent presents are certainly understandable. The issues involved are very difficult. We have no easy solutions to suggest, but offer the following analysis and observations on the matter that may be useful to you.

The Facts As Presented by Your Constituent

According to your constituent, she is 61 years old. Her husband, an employee of a private company, died in 1979. She said she retired on a "discontinued service" early out from the Department of Agriculture when her office was closed. She did not give her retirement date. Her Civil Service pension is \$1,180 a month (\$1,093.94 after deductions). In response to an inquiry from your office, the Social Security Administration (SSA) advised that she will be eligible for \$218 a month in Social Security survivor benefits if she waits until age 65 and \$57 a month if she elects to take the benefits at age 62.

Her complaint is that she would receive Social Security benefits equal to her husband's benefit (according to SSA, \$779 a month at age 62 or \$940 a month at age 65), were it not for the offset applied to spouses who receive federal pensions and earned no Social Security benefits from their own employment. She says the offset provision deprives her of a livable income.

GAO/GGD-92-15R, Public Pension Offset

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How Social Security Benefits Are Determined
for Surviving Spouses

All covered employees earn Social Security benefits from their employment. At retirement, their benefits are calculated under the formula prescribed in law. However, a spouse, either male or female, is guaranteed to receive no less than one-half of the other spouse's benefit, if higher. For example, a wife who is entitled to \$400 a month from her own employment would receive \$500 a month if her husband's benefit was \$1,000 a month. When a spouse dies, the survivor receives the higher of the two spouses' benefits. In this example, the husband would continue to receive \$1,000 a month if his wife died, but the wife would have her benefit increased to \$1,000 a month if her husband died first. Benefits are determined in the same manner for a spouse who did not work or did not work enough to qualify for Social Security. That spouse receives one-half the other spouse's benefit while both are living and the full benefit when the other spouse dies.

How the Public Pension Offset
Affects Spouses Who Are Federal Retirees

The Public Pension Offset was enacted in 1977. It applies to federal, state, and local government retirees who were not covered by Social Security during their government employment. This includes federal employees in the Civil Service Retirement System. Federal employees first hired after December 31, 1983, were covered by Social Security as part of the new Federal Employees Retirement System (FERS), so the offset does not apply to them.

The offset affects federal retirees who are eligible for Social Security benefits as the spouse or surviving spouse of a Social Security recipient. The offset provision requires a spousal or survivor benefit to be reduced by \$2 for every \$3 of public pension received. The offset does not apply to any Social Security benefits the federal retiree earned from his or her own covered employment.

The purpose of the offset provision is to prevent spouses of Social Security recipients from receiving a full benefit in addition to a pension from their employment not covered by Social Security.

According to a report we issued in 1988, the offset provision completely eliminates spousal or survivor benefits for most government retirees (both federal and

nonfederal) who were not covered by Social Security.¹ The report showed the offset provision was being applied to 104,608 retirees in January 1988 and it eliminated benefits for 95 percent of them. An April 1992 analysis by the Congressional Budget Office (CBO) provided some up-dated information.² It said the offset provision was being applied to about 145,000 public retirees in December 1991. Benefits were eliminated for 120,000 people--about 85 percent of the total-- and partially eliminated for the remaining 25,000. Thus, your constituent is far from alone in her circumstance. In fact, your constituent is one of the relatively few federal retirees who will get a Social Security benefit at all from her spouse's employment.

The CBO analysis said the offset was enacted in response to a Supreme Court decision in 1977. Before that decision, men had to prove they depended on their wives for at least half of their support before they could receive spousal Social Security benefits. This "dependency test" was not required for women. The Court ruled the dependency test was unconstitutional. The decision meant that men who had worked mainly in noncovered employment and earned no Social Security benefits were eligible for spousal benefits. CBO said concern over the cost of paying Social Security benefits to thousands of newly eligible people as well as questions about the "windfall" nature of those benefits led Congress to enact the offset provision. When first enacted, the offset was dollar-for-dollar. The 1983 Social Security Amendments reduced the offset rate to its current two-thirds.

What Are the Retirement Policy
Implications of Changing the Offset?

There simply is no clear cut conclusion that can be drawn from this situation. Arguable cases can be made from both sides. Proponents for change could make a plausible argument that Social Security, as a system, provides retirement benefits to workers, as well as their spouses, and that your constituent's husband did not receive full benefit for the Social Security taxes he paid. This

¹Federal Workforce: Effects of Public Pension Offset on Social Security Benefits of Federal Retirees (GAO/GGD-88-73, Apr.27, 1988).

²CBO Staff Memorandum, The Government Pension Offset in the Social Security Program, April 1992.

argument would maintain that Social Security and civil service retirement are unrelated programs, which they are, and benefits received from one should have no bearing on benefits from the other. Similarly, the question could be raised of why a spouse who paid no Social Security taxes because she worked for the government should be treated differently from a spouse who paid no taxes because she didn't work at all. There is also the questionable equity of applying the offset to spouses who receive federal pensions when it is not applied to spouses who receive private pensions. (A possible rebuttal to the last argument could be that a spouse with a private pension, unlike a federal retiree, also paid Social Security taxes.)

Supporters of the offset provision can argue that Social Security was intended to provide a basic subsistence and should not be paid to someone who receives that subsistence amount from a federal pension. In fact, they could say the offset gives the federal retiree a break by only taking away two-thirds of the subsistence amount rather than all of it. CBO also observed that the offset effectively treats two-thirds of the government pension as equivalent to Social Security and one-third as equivalent to a private pension.

Probably the greatest argument against changing the law is the one that was used in enacting the offset in the first place. That is, eliminating the offset would be very costly. CBO estimated eliminating the offset would cost \$3 billion over the 1993-1997 period; lowering it to one-third would cost \$690 million; and lowering it to one-half would cost \$400 million. These estimates did not include an unknown number of public pension recipients who never applied for Social Security spousal benefits because they knew the offset provision would eliminate any benefits they otherwise would qualify for.

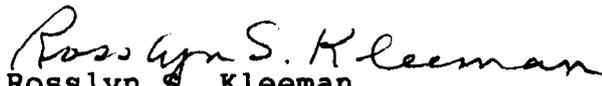
Your constituent did not indicate when she retired from the federal government. However, if she retired before November 30, 1982, there is a possibility that she could be exempt from the offset provision. The 1977 legislation included several exemptions. The primary exemptions were people who applied for Social Security benefits before December 1977; people who were eligible to receive a government pension for any month from December 1, 1977, through November 30, 1982, and who met the dependency test in effect as of January 1977 (men only); and people who were eligible to receive a government pension from December 1, 1982, through June 30, 1983, and whose spouses provided

one-half their support (applied to both men and women). The earliest she could have been eligible for optional civil service retirement was November 28, 1985, (when she was age 55). She would have been eligible for an early out on November 28, 1980 (when she was age 50), if she had 20 years of service, but her actual early retirement date was apparently later than that since she indicated she was still working in late 1980. If her retirement was before November 30, 1982, the dependency test would not have applied to her and she would be eligible for full Social Security spousal benefits. The dependency test would have applied if she retired between December 1, 1982, and June 30, 1983, and she would not have met the test because her husband died before that. There were no exemptions from the offset provision for persons eligible to retire after June 30, 1983.

SSA is responsible for determining if the offset provision applies to your constituent and, if so, how much the offset amount would be.

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I trust this information has been helpful. Please call me on (202) 275-6204 if you have any questions. As your office requested, I am returning the materials sent to us for use in our analysis.

Sincerely yours,


Rosilyn S. Kleeman
Director, Federal Workforce
Future Issues